



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R1-ES-2022-N230; FXES11140100000-223-FF01E0000]

Western Oregon State Forests Habitat Conservation Plan and Incidental Take

Permit Application; Draft Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS), have received an incidental take permit (ITP) application from the Oregon Department of Forestry (ODF), associated with the Western Oregon State Forests habitat conservation plan (HCP), pursuant to the Endangered Species Act. If granted, the ITP would authorize incidental take resulting from activities and conservation activities carried out as part of the HCP conservation strategy. We invite review of and comment on the ITP application and the HCP from local, State, and Federal agencies; Tribes; and the public. A draft environmental impact statement, provided by the National Marine Fisheries Service (lead agency under the National Environmental Policy Act), is also available for review.

DATES: Comments must be received no later than **June 1, 2022**. Any comments received after the closing date may not be considered in the final decision on these actions.

ADDRESSES: Submitting Comments: You may submit comments in either of the following ways:

Internet: Go to <https://www.regulations.gov> and enter NOAA-NMFS-2021-0019 in the Search Box. Follow the instructions for submitting comments on NOAA-NMFS-2021-0019. (This is a NOAA docket, because NOAA is the lead agency under NEPA.) Please specify whether your comments pertain to the Draft EIS or the HCP, and reference

specific sections and/or page numbers. Written comments to any other address or individual, or received after the end of the comment period, may not be considered by FWS. All comments received are part of the public record and will generally be posted for public viewing on <https://www.regulations.gov>. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. FWS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Virtual Public Meeting: In its notice of March 18, 2022 (87 FR 15383), NMFS announced a virtual public meeting for April 6, 2022, during which oral comments would be accepted regarding the ITP applications, HCP, and Draft EIS.

If you have already submitted comments on FWS or NMFS species in response to the NMFS notice in writing, or orally at the public meeting on April 6, 2022, you do not need to resubmit them in response to this notice for them to be considered.

Obtaining Documents for Review: The Draft HCP and draft EIS are available for review online at <https://www.fisheries.noaa.gov/action/western-oregon-state-forests-habitat-conservation-plan> and at <https://www.regulations.gov> in Docket No. NOAA-NMFS-2021-0019.

FOR FURTHER INFORMATION CONTACT: Joe Zisa, FWS, by phone at 503-231-6961 or via email at Joe_Zisa@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (FWS), have received an incidental take permit (ITP) application from the Oregon

Department of Forestry (ODF), associated with the Western Oregon State Forests habitat conservation plan (HCP), pursuant to the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). If granted, the ITP would authorize the incidental take of the species included in the HCP, resulting from the activities and conservation activities carried out as part of the HCP conservation strategy. The National Marine Fisheries Service (NMFS) also received an ITP application associated with the same HCP, and on March 18, 2022, published (87 FR 15383) a notice of the availability inviting comment on the ITP applications, the HCP, and a draft environmental impact statement (Draft EIS) analyzing the potential effects of issuance of the respective ITPs by NMFS and FWS. NMFS is the lead Federal agency under the National Environmental Policy Act of 1969, as amended (NEPA), for this draft EIS.

At this time, FWS issues this additional *Federal Register* notice to confirm that (a) FWS has received the ODF ITP application and HCP regarding species under FWS's jurisdiction, and (b) FWS is inviting public comment on FWS's consideration of the ITP and HCP, in conformance with ESA section 10(c), through the same comment period process contained in the above-referenced NMFS notice (87 FR 15383).

ESA-Listed Species Under FWS Jurisdiction Included in the HCP:

- Northern spotted owl (*Strix occidentalis*): Threatened
- Marbled murrelet (*Brachyramphus marmoratus*): Threatened
- Coastal marten (*Martes caurina*): Threatened coastal distinct population segment (DPS)

Non-ESA-Listed Species Addressed by the FWS Included in the HCP:

- Oregon slender salamander (*Batrachoseps wrighti*)
- Columbia torrent salamander (*Rhyacotriton kezeri*)
- Cascade torrent salamander (*Rhyacotriton cascadae*)
- Red tree vole (*Arborimus longicaudus*)

Species included in the HCP addressed by NMFS are identified in the NMFS notice of availability (87 FR 15383).

Background

Section 9 of the ESA and its Federal regulations prohibit the taking of a species listed as endangered or threatened. The ESA defines “take” to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. FWS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities pursuant to section 10(a)(1)(B) of the ESA and its implementing regulations (50 CFR 17.22(b) and 17.32(b)). On February 9, 2020, NMFS and FWS received separate applications from ODF for ITPs to authorize take of the above-mentioned species that may occur incidental to ODF’s forest and recreation management activities. These activities are identified in the NMFS notice of availability (87 FR 15383). The ITP applications and HCP also include non-listed species; take coverage would become effective for these species if and when they become listed during the permit term. The HCP specifies the impacts that will likely result from the taking of the species and describes the steps that ODF will take to minimize and mitigate such impacts.

The proposed issuance of the ITPs is considered a Federal action under NEPA, and NMFS determined that preparation of an EIS to analyze the potential impacts on the human environment was appropriate. A Draft EIS was prepared by NMFS in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*), with input from FWS as a cooperating agency. Further information regarding the Draft EIS is described in the NMFS notice of availability (87 FR 15383).

In regard to the ITP application to the FWS and the supporting HCP, and as noted in the NMFS notice of availability, we specifically request information on the following:

1. Biological information, analysis, and relevant data concerning the covered

species under FWS jurisdiction, other wildlife, and ecosystems.

2. Potential effects that the proposed permit actions could have on the covered species under FWS jurisdiction, and other endangered or threatened species, and their habitats, including the interaction of the effects of the project with climate change and other stressors.
3. Adequacy of the proposed action to minimize and mitigate the impact of the taking on covered species.
4. Other information relevant to the HCP.

FWS and NMFS (the Services) will each make their permit decisions based on the statutory and regulatory criteria of the ESA. Their decisions will also be informed by the data, analyses, and findings in the EIS and public comments received on the Draft EIS and HCP accompanying the ITP applications. The Services will each document their determinations independently in an ESA section 10 findings document, ESA section 7 biological opinion, and NEPA Record of Decision (ROD) developed at the conclusion of the ESA and NEPA compliance processes. If the Services find that all requirements for issuance of the ITPs are met, they will issue the requested permits, subject to terms and conditions deemed necessary or appropriate to carry out the purposes of ESA section 10.

Authority

Section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 50 CFR 17.32).

Robyn Thorson,
Regional Director,
U.S. Fish and Wildlife Service.

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